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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,050	12/13/2001	Sudhindra Pundaleeka Herle	SAMS01-00184	6585
7590	10/17/2005		EXAMINER	
Docket Clerk P.O. Box 800889 Dallas, TX 75380			NGUYEN, HUY D	
			ART UNIT	PAPER NUMBER
			2681	

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/017,050	HERLE ET AL.
	Examiner Huy D. Nguyen	Art Unit 2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 25 July 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 7/25/2005 have been fully considered but they are not persuasive.

Regarding independent claims 1, 8, and 15, the applicant submitted that the Bowman reference does not disclose an apparatus for wireless software download to a wireless communications device capable of Internet access. The examiner directs the applicant to paragraph [0021] of the Bowman reference where the above limitation is taught: "Mobile device 110 and computer 112 access DPS 122 through a network interface 114 that is coupled to a communications network 118 (the Internet or the PSTN) via a communications channel 116 (traditional or wireless). Device 110 and computer 112 are configured to download application software to access DPS 122."

The applicant also submitted that the Wu reference does not teach an auxiliary device separate from the wireless communications device including sufficient storage for holding program code to be downloaded; and a connection between the wireless communications device and the auxiliary device. The examiner responds that the limitation "auxiliary device separate from the wireless communications device including sufficient storage for holding program code to be downloaded" can be read on by the removable memory card 112 which can be used to store program code and it is inherent that when the removable memory card 112 is coupled to the portable computer 100, there is a connection between the memory card 112 and the portable computer 100 (see Wu: figure 1 and column 4, lines 30-34).

The applicant also submitted that neither portable computer 100 nor desktop computer 102 in the Wu reference is a wireless communications device and neither can download program code from a remote server by a wireless connection. The examiner direct the applicant to column 5, lines 59-62 where Wu teaches that communication link 114 can utilize any type of communication medium and any type of communication protocol to exchange data between portable computer 100 and base computer 102.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowman et al. (US 2002/0174431 A1) in view of Wu (US 6,442,570).

Regarding claims 1, 8, 15, Bowman et al. teaches that for use in a communications system, an apparatus for wireless software download to a wireless communications device capable of Internet access wherein the software to be downloaded is retrieved from a remote server through a wireless connection for the wireless communications device (see paragraph [0029]).

Bowman et al. does not teach an auxiliary device including sufficient storage for holding software to be downloaded; and a connection between the wireless communications device and

the auxiliary device, wherein the software is to be downloaded to the auxiliary device and installed from the auxiliary device onto the wireless communications device.

However, Wu teaches an auxiliary device (e.g., removable memory card 112 – Fig. 1) including sufficient storage for holding software to be downloaded (see column 4, lines 30-34); and a connection between the wireless communications device and the auxiliary device (see Fig. 1), wherein the software is to be downloaded to the auxiliary device and installed from the auxiliary device onto the wireless communications device (see column 4, lines 40-42).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to apply the teaching of Wu to the teaching of Bowman et al. to expand the memory of the portable device as taught in Wu (see column 4, lines 30-34).

Regarding claims 2, 9, 16, the combination of Bowman et al. and Wu teaches the apparatus according to claim 1, wherein the auxiliary device lacks a connection to the remote server independent of the connection between the wireless communications device and the auxiliary device (Wu Fig. 1).

Regarding claims 4, 11, 18, the combination of Bowman et al. and Wu teaches the apparatus according to claim 1, wherein the software to be downloaded is retrieved by the auxiliary device from the remote server through an Internet connection provided by the wireless communications device (see Bowman paragraph [0029] and Wu column 4, lines 40-42).

Regarding claims 6, 13, 20, the combination of Bowman et al. and Wu teaches the apparatus according to claim 1, wherein the software downloaded to the auxiliary device, when installed on the wireless communications device, replaces software on the wireless device at a time of the software download (see Wu column 4, lines 40-42).

Regarding claims 7, 14, the combination of Bowman et al. and Wu teaches the apparatus according to claim 1, wherein the software downloaded to the auxiliary device is retained after installation on the wireless communications device and reused for installation on other similar wireless communications devices (see Wu column 4, lines 36-38).

Regarding claims 5, 12, and 19, the combination of Bowman et al. and Wu teaches the claimed invention except that the wireless communications device is a mobile telephone and the auxiliary device is a personal digital assistant. However, it would be an obvious matter of design choice to use a mobile telephone as a wireless communications device and a PDA as an auxiliary device since the invention would perform equally well with the wireless communications device being a mobile telephone and the auxiliary device being a PDA.

### *Conclusion*

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact Information***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy D. Nguyen whose telephone number is 571-272-7845. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*(h)*  
Huy Nguyen

*Erika A. Gaff*  
ERIKA A. GAFF  
PRIMARY EXAMINER